



CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

New Jersey Office of the Attorney General

Division of Consumer Affairs

State Board of Dentistry

124 Halsey Street, 6th Floor, Newark, NJ 07102

VIA CERTIFIED (RRR) AND REGULAR MAIL



JOHN J. HOFFMAN
Acting Attorney General

STEVE C. LEE
Acting Director

January 21, 2015

RECEIVED AND FILED
WITH THE
N.J. BOARD OF DENTISTRY
ON 2-10-15 DA

Mailing Address:
P.O. Box 45005
Newark, NJ 07101
(973) 504-6405

Dr. Kim Lyvan
3630 John F. Kennedy Boulevard
Jersey City, NJ 07307

Re: Settlement Letter in Lieu of Formal Disciplinary
Proceedings in Complaints:
90299 - P.S.

Dear Dr. Lyvan:

This letter is to advise you that the New Jersey State Board of Dentistry completed its review of information concerning the above captioned complainants. Specifically, the information reviewed included:

1. The patient's complaint;
2. A copy of your response, including patient treatment and financial records, and other office records;
3. Proof that you have provided restitution to the patient; and,
4. Other available information about the patient's condition.

Based upon the review of these matters, the Board has determined that you engaged in the following actions which may constitute violations of the Board's statutes and regulations:

- 1. Diagnosis and Treatment Planning** - Your diagnosis of two of the three lower right teeth was "acute moderate periodontitis", but you proceeded to treat the teeth with endodontic therapy without first addressing the periodontal problem(s). Additionally, you proceeded with endodontic therapy with only one pre-treatment periapical x-ray that did not show the full root and apex of the pre-molar.
- 2. Execution of Treatment** - Post-operative x-rays show that all of the endodontic fillings are short of the apex. Additionally, it appears that no working films were taken during treatment.
- 3. Failure to Cooperate** - Even though you were twice requested to provide a patient ledger that shows the dates and amounts of all charges and payments for this patient, the Board received only copies of payment vouchers from the insurance company.

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These actions may constitute acts sufficient to initiate the filing of formal disciplinary proceedings. However, the Board has determined that it will first offer you an opportunity to settle this matter, and avoid the initiation of formal disciplinary proceedings, should you agree to the following:

1. Forgive any outstanding balance still on the patient's account in your office records.
2. Successfully complete a total of ten (10) credits of remedial continuing education in the following subject areas: seven credits in diagnosis and treatment planning and three credits in ethics. Remedial course work is in addition to the continuing education that is required for the renewal of your license, and must be completed within six (6) months of the signing this letter.
3. Accept the Board's advice that when communicating with the Board in the future it is your responsibility to provide records timely, upon request, and failure to do so provides the grounds for disciplinary action.

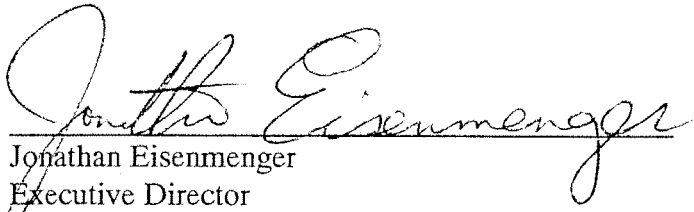
If you are willing to settle this matter on the offered settlement terms, you may do so by signing the acknowledgment at the bottom of this letter, and returning it to the Board office. The restitution should be paid by a check or money order made payable to the patient and insurance company, respectively, and submitted to the Board office. You should also submit a copy of the adjusted patient ledger that shows that the patient's account balance has been made "\$0". You should be aware that upon receipt of your signed acknowledgment, this letter will be a matter of public record.

In the event you are unwilling to settle this matter on the offered terms, it will be referred to the Attorney General's office for the initiation of an appropriate enforcement action. In such event, you will be afforded an opportunity to defend against the alleged violations. If an evidentiary hearing is deemed warranted, the Board will either conduct that hearing at a date and time to be scheduled or refer the matter to the Office of Administrative Law. You are advised, however, that in the event formal charges are filed, the Board may assess civil penalties in an amount greater than those offered in settlement here, in addition to other sanctions, should any charges against you be sustained. Additionally, the Board may, if the facts are found to so warrant, enter an order requiring you to reimburse certain monies and/or requiring you to pay the additional costs incurred by the Board. Should you have any questions concerning this letter or the settlement offer, I suggest that you contact Deputy Attorney General Swang Oo, who may be reached at (973) 648-2500.

If you elect to settle this matter, you should sign the acknowledgment at the bottom of this letter and return it to the Board within fifteen (15) days following your receipt of this letter. In the event that the Board receives no response from you within fifteen (15) days, the Board's settlement offer will be withdrawn, and the matter will be referred to the Attorney General's Office for the initiation of appropriate enforcement proceedings.

Sincerely,

STATE BOARD OF DENTISTRY




Jonathan Eisenmenger
Executive Director

cc: Swang Oo, Deputy Attorney General

ACKNOWLEDGMENT: I, Dr. Kim Lyvan, have read and reviewed the settlement proposal set forth in this settlement letter. I acknowledge the conduct which has been charged. I am aware that by signing this acknowledgment, I am waiving any rights I may have to defend myself against any charges of wrongdoing at an administrative hearing. I am also aware that the action taken against me by the Board is a matter of public record, and that this letter is a public document. I agree to comply with the directives noted. I will:

1. Forgive any outstanding balance still on the patient's account, and provide a copy of the current ledger of the patient's financial account that shows that there is no remaining outstanding balance.
2. Successfully complete a total of ten (10) credits of remedial continuing education in the following subject areas: seven credits in diagnosis and treatment planning and three credits in ethics. Remedial course work is in addition to the continuing education that is required for the renewal of your license, and must be completed within six (6) months of the signing this letter.
3. Accept the Board's advice that when communicating with the Board in the future it is your responsibility to provide records timely, upon request, and failure to do so provides the grounds for disciplinary action.

01.30.2015
Date



Dr. Kim Lyvan